

**APPENDIX III—Article Regarding Recent
Initiatives on Late Payment
(4 pages)**

Interest on late payment of bills

The late Nicholas Saunders writes: 'Lattice Structures, a small firm in mid-Wales making Islamic screens, were promised payment within 28 days of delivery of a large order, and in fact were not paid for four months. Many small businesses and self-employed tradesmen are exploited for credit in this way. Their cash flow problems stem from having to pay up quickly on their bills, whilst large firms tend to push for longer credit.'

'The cash flow problems of small firms stem from having to pay up quickly on their bills, whilst large firms tend to push for longer credit'

The Institute advocates that the UK government introduce the Danish system whereby small firms are protected from big firms' late payments by a statute charging interest on late payment - it seems that the system in Denmark works very satisfactorily.

Danish law provides that in the absence of any other agreement, interest is charged once payment becomes due (if such a date is found in the contract); in other cases, interest is charged if a letter is sent requesting payment of the principal and indicating that interest will be charged a month from the date of the letter. The interest rate allowed for is 6% above the Danish Central Bank's 'discount rate' (making a total of approximately 13% per annum at present).

Many Danish firms charge a higher rate of 2% or 1.5% per month, payable 30 days from the end of the month found on the invoice. But legal cases have established that it is not sufficient for this higher interest requirement to appear on invoices. It must be in the conditions of sale.

There have been very few problems since this system became general from 1986. In the early days a few companies would try to avoid paying the interest, and sometimes good customers would be let off 'this once', but now firms pay up quite readily. The rate charged varies from about 1.2% per month to 2.5%. Currently 1.5% per month seems to be the average. The introduction of this new business climate was facilitated originally by the government bringing together all the various business associations, who agreed that getting cheap credit from small firms through late payment was unfair, and that this new system should be introduced.

A recent CBI survey showed that nearly one in five small firms in the UK was under threat because of late payment of bills, and a large majority of small and medium-sized businesses backed a statutory right to interest on outstanding debts.

The Institute for Social Inventions sympathises with the government's desire to avoid legislation and its desire to simplify the conditions under which businesses operate. Statutory interest would, surprisingly, help achieve this. At present there is a right to interest, but one has to get a county court judgement in one's favour to acquire it (in the county court interest of 15% from the due date is awarded on debts). How much simpler it would be and how much less recourse to legal processes would be involved, if statutory interest were in place and were part of the business climate.

There is such a statutory right to interest not only in Denmark but in West Germany, the Netherlands, France, the United States and Norway. In one or two of these countries the legislation is not widely known about, but where it has been introduced or publicised fairly recently, it appears to be effective - in Norway, for instance, there is little incidence of late payment of debts.

'There is a statutory right to interest for late payment not only in Denmark but in West Germany, the Netherlands, France, the United States and Norway'

Perhaps a statutory right to interest may eventually become the EC norm. *Nicholas Saunders died in a car accident in South Africa in February 1998. A book about him by his friends is online at www.globalideasbank.org/Saunders.HTML. Feedback to: The Institute for Social Inventions, 6 Blackstock Mews, Blackstock Road, London N4 2BT (tel 020 7359 8391; fax 020 7354 3831; e-mail: rhino@dial.pipex.com).*

* Recent initiatives on late payment

Summarised from a story by Andrew Lorenz, entitled 'Charter pledges to put curb on late payment' in the Sunday Times.

The European Commission has indeed threatened to initiate a prompt-payment directive, but as yet no concrete proposals have emerged. In the UK, meanwhile, the Government has introduced limited legislation to outlaw 'pay when paid' practice in the construction industry. This practice, whereby big businesses refuse to pay subcontractors until they themselves have been paid, had been a persistent problem.

For companies outside the construction sector, help has not been so forthcoming: Whilst he was President of the Board of Trade, Michael Heseltine publicly exhorted larger companies to pay promptly (although he admitted, in an interview which generated a great deal of embarrassing publicity, that whilst building up his own publishing business he had adopted a deliberate policy of late payment to subcontractors). The CBI is preparing a 'prompt payers' code', but it will not carry any legal sanction.

* Yet in Gloucestershire, smaller companies are being given a lift by a local initiative designed to help overcome the late-payment problem. The Gloucestershire Voluntary Payment Charter was launched in 1995. Recognising that different industries work on different trade cycles, the charter does not state a definite period within which debts should be settled. Instead, the charter says any firm can sign a commitment to pay its debt within the normal specified terms of trade.

Apart from the terms of trade commitment, charter signatories pledge to raise any invoice queries, which frequently delay and disrupt the payment process, within half the time of the usual payment period. In return, they can use a Voluntary Payment logo on their stationery and invoices.

The agency running the scheme says: "The charter is not simply about improving credit management of local companies. It will also help to show suppliers and customers alike that yours is an organisation worth doing business with."

Summarised from a story by Claire Oldfield, entitled 'Firms wary of payment law' in the Sunday Times, 13 September 1998.

On November 1st 1998, small firms - those with fewer than 50 workers - will have the legal right to claim interest on late payment of bills. The rate of interest will be calculated at the Bank of England's prevailing base rate, currently 7.5%, plus 8%, and will be tiny, especially on the smallest debts. So far however, only one in ten firms polled by NatWest have planned for the legislation, and of those, only 2% have spoken to customers or suppliers about the changes. The main problem is that legislation could damage the delicate relations between small firms and their customers or suppliers. Stephen Alambritis of the Federation of Small Businesses suggests that firms may opt instead for a hint in their verbal

negotiations that they could enforce the law to continue the trust-based relationship they now have with customers.

The legislation could also backfire if big companies use it to force small companies to pay on time. This would be a reversal of the present position, in which small firms have been worst affected by late payment since they do not have the resources to bounce payments around to compensate for late settlement.

For the first phase of the new legislation, small firms will be able to claim interest from large businesses and the public sector on debts incurred after 1st November. From November 2000, they will have the right to claim interest from other small businesses, and by November 2002, all businesses and the public sector will be able to claim interest from all businesses and the public sector.

Peter Oatley of Barclays Bank says: 'The late-payment bill sets out to improve the payment culture in this country. Legislation can only be good for the British economy and small firms.' The legislation may help focus small firms on maximising cash flow during the present economic downturn, but there is still a long way to go before an anti-late-payment culture takes root.

The struggle for small businesses continues

Summarised from an article by Grania Langdon-Down, entitled 'The struggle to punish late payers', in The Times (28th November 2000).

With the legislation widening in this month (November 2000) to allow small businesses to claim penalty interest from other small businesses, the question as to whether the legislation actually works still remains. A survey conducted by the Credit Management Research Centre found that, in the past year, one in ten firms had used the legislation to claim interest (double the figure the year before) from late-payers. Meanwhile, one in three used the legislation as a deterrent, informing debtors that they charged interest as part of their standard collection process.

Some still regard the legislation as ineffective, though, because many small businesses are afraid of offending their customers. As Steve Sidkin, a commercial lawyer, puts it, "If you decide to use the legislation, the chances are that the customer who has been late in paying isn't going to come to you again - so are you going to use it?" And the facts remain: a third of small businesses are affected by late payment, and a fifth of all invoices are overdue. The legislation should be given time to become part of business culture, but changes may yet have to be made to improve the reputation of Britain's businesses.

The above information came partly from the Danish Industry Ministry (tel 00 45 1 923350); a Danish lawyer in London, Christian Emeluth (tel 020 7 497 9389); Ole Christensen at the British Embassy in Copenhagen (tel 00 45 126 4600); Andy Scott at the CBI (tel 020 7 379 7400) and Colin Gray, Deputy Director-General at the Small Business Research Trust (tel 020 7 828 5327).

A pressure group, The Forum of Private Business, has been formed by small businesspeople to campaign for legislation to introduce an automatic right to interest on late payments. With sponsorship from The Royal Bank of Scotland, they hope to exploit the government's recent, more sympathetic line towards this argument. (The Labour Party, under John Smith in opposition, did commit itself to this policy, but no action has yet been taken by the Blair administration.) For £10, you can join their Prompt Payment Campaign, for which you will receive a pack including a Dun & Bradstreet ActionPrompt document which should enable you to call in one outstanding debt. You should write to: The Forum of Private Business, PO Box 1388, Helensburgh, Dunbartonshire G84 5YW.

For a related article in the Global Ideas Bank, see [Using VAT to penalise late payers](#)

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